



Republic of the Philippines
Department of Environment and Natural Resources
NATIONAL WATER RESOURCES BOARD

RESOLUTION NO. 18-0118
January 24, 2018 – 174th Board Meeting

POLICY GUIDELINES ON THE CANCELLATION OF
WATER PERMIT DUE TO NON-USE

The **NATIONAL WATER RESOURCES BOARD** (“the Board”), a government institution, created and existing under Philippines, with office address at 8th Floor, NIA Building, EDSA, Quezon City, states:

WHEREAS, Article 13 of the Water Code of the Philippines states that “Except otherwise herein provided, no person, including government instrumentalities or government-owned or controlled corporations, shall appropriate water without a water right, which shall be evidenced by a document known as a *water permit*”.

WHEREAS, Article 29 states that “*Water permit* may be revoked after due notice and hearing on grounds of non-use; gross violations of conditions imposed in the permit; unauthorized sale of water; willful failure or refusal to comply with rules and regulations or any lawful order; pollution, public nuisance or acts detrimental to public health and safety; when the appropriator is found to be disqualified under the law to exploit and develop natural resources of the Philippines; when, in case of irrigation, the land is converted to non-agricultural purposes; and other similar grounds;

WHEREAS, Section 15 of the Implementing Rules and Regulations (IRR) of the Water Code, Letter (h) states that “Non-use of the water for the purpose stipulated in the permit for a period of three (3) consecutive years from date of issuance or completion of diversion works and necessary structures, shall render said permit null and void, except as the Board may otherwise allow for reasons beyond the control of the permittee.”

WHEREAS, monitoring conducted by the Monitoring and Enforcement Division personnel on compliance by permittees to water permit conditions revealed that the volume of water granted to some *Water Permittees* is not being utilized due to unforeseen circumstances and interventions;

NOW, THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED, to approve the following policy guidelines on the cancellation of water permits due to non-use:

1. All water permits shall be cancelled based on the following grounds:
 - a. Water permit grantees that are found to be non-compliant on the ground of non-use for a period of three consecutive years from the date of issuance of the water permit;
 - b. Water permit grantees that are found to be non-compliant on the ground of non-use for a period of three consecutive years from the date of completion of the diversion works and necessary structures;

- c. Water permit grantees that have unfinished and abandoned construction of diversion works and necessary structures;
 - d. Water permit grantees that are found to be non-compliant with the conditions stipulated in the water permit based on the findings of the Monitoring and Enforcement Division (MED) staff;
2. A Show Cause Order shall be issued to the said permit grantees directing the submission of a written explanation and show cause why no legal sanction should be imposed for the violation;
 3. The MED shall evaluate and validate the submitted reply of the *Water Permit Holder* on the Show Cause Order issued by NWRB. If the explanation is found to be justified/acceptable, Cease and Desist Order (CDO) shall not be issued and the water permit shall not be cancelled. Otherwise, a CDO shall be issued and the said water permit shall be cancelled accordingly;
 4. Exceptions to the cancellation of the water permit shall be under the following circumstances:
 - a. When the delay in the construction of the structures is caused by *force majeure* such as major earthquake, extreme flooding and volcanic eruption.
 - b. When the completion of the project is suspended because of geopolitical issues such as armed conflicts and terrorism which have significant impacts on the project and other unforeseen events;
 - c. When the reason for non-use is due to the following:

TECHNICAL

- i. On-going feasibility study. The water permit holder shall be given a one-year extension to complete the study. Another extension may only be allowed based on the recommendation of the NWRB technical staff;
- ii. Long duration to complete the project. The water permit holder shall be given a one-year extension to complete the necessary diversion works and other structures. Another extension may only be allowed based on the recommendation of the NWRB technical staff.

LEGAL

When there are legal cases or litigation in court which last for more than three (3) years such as the following:

- i. Legal impediments such as right of way acquisition;
- ii. Pending cancellation cases filed against the water permit holder;
- iii. In cases where the permit holder is a bulk water supplier, i.e. the bid was awarded to the permit holder but the contract was awarded to another bidder that resulted to the filing of case against the proponent.

INSTITUTIONAL

- i. Issues on securing other government (national/local) permits, certificates and clearances
- ii. Political/civic interventions

FINANCIAL

- i. When the investors withdrew from the project after the issuance of the water permit

However, the abovementioned reasons shall only be allowed for a certain period of time on a case to case basis or as determined by the NWRB office.

RESOLVE FURTHER, that when a water permit is cancelled upon the request of the permittee, said permittee will not be allowed to re-apply for the same diversion point for a period of one year, and six (6) months if applying for other diversion point/s.

However, if the permit is cancelled due to non-use after three (3) years from approval, the former permittee will not be allowed to re-apply for the same diversion point for a period of five (5) years and one (1) year, if applying for other diversion point/s.


In addition, in case the former permittee associated with another individual/company and formed a partnership/company wherein the former permittee owns 50% or more of the stocks, the foregoing conditions will still apply. However, if the share of the former permittee is less than 50%, it shall be treated as a new application.

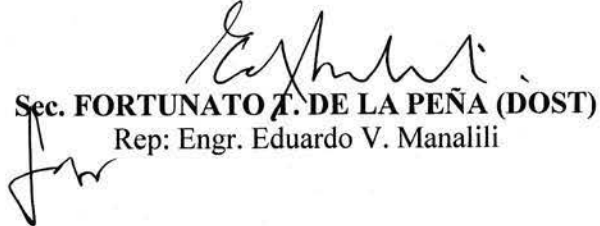
IN WITNESS WHEREOF, we have hereunto set our hands this 24th day of January 2018 in Quezon City, Philippines.


Sec. **ROY A. CIMATU (DENR)**
Chairman

Sec. **ERNESTO M. PERNIA (NEDA)**
Rep: DDG Rolando G. Tungpalan
Vice-Chairman

Members:


Sec. VITALIANO N. AGUIRRE II (DOJ)
Rep: Asst. Chief State Counsel Ruben F. Fondevilla


Sec. FORTUNATO T. DE LA PEÑA (DOST)
Rep: Engr. Eduardo V. Manalili


Dr. ROBERTO S. SORIANO (UP-NHRC)